

AMENDED IN ASSEMBLY APRIL 10, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1186**

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**Introduced by Assembly Member Karnette**

February 23, 2007

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An act to amend ~~Sections 17053.70 and 23612.2~~ *Section 11294* of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1186, as amended, Karnette. ~~Income and corporation tax credits: qualified property. Private Railroad Car Tax Law: assessment factors.~~

*The Private Railroad Car Tax Law requires, in lieu of an ad valorem property tax, the State Board of Equalization to assess and tax private railroad cars operated upon railroads in this state by class based on the owner's acquisition cost, less depreciation, as provided. That law requires the board to determine the average number of each class of private railroad cars that are physically present in the state during the calendar year immediately preceding the fiscal year in which the tax is imposed, but excludes from this determination time in which the car was undergoing specified maintenance.*

*This bill would additionally require the board to exclude from this determination the average dwell time for cars awaiting loading, unloading, or loading and unloading.*

~~The Personal Income Tax Law and the Corporation Tax Law authorize various credits against the taxes imposed by those laws, including a credit for the sales and use tax paid for the purchase of qualified property, as defined, used by a qualified taxpayer, as defined, in enterprise zones. Among other things, the credit is for the total cost of~~



qualified property purchased and placed in service in any taxable year in an amount not to exceed \$1,000,000 under the Personal Income Tax Law and \$20,000,000 under the Corporation Tax Law.

This bill would apply those dollar limitations on a per enterprise zone basis.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 11294 of the Revenue and Taxation Code  
2     is amended to read:

3     11294. (a) In determining the averages required in Section  
4     11293, the board shall exclude from the California factor ~~car~~ both  
5     of the following:

6     (1) The average dwell time for cars awaiting loading, unloading,  
7     or loading and unloading.

8     (2) Car mileage, car days or such other data ~~which~~ that occurs  
9     while cars are not qualified for revenue service and are in a repair  
10    facility in this state requiring and undergoing or awaiting  
11    remodeling, overhaul, renovation, conversion or repair which  
12    necessitates total labor in excess of 10 man-hours.

13    ~~Car~~

14    (b) Car days excluded pursuant to this section shall not exceed  
15    90 days per car unless the claimant provides substantiation of the  
16    necessity for the additional days in such form as prescribed by the  
17    board.

18    SEC. 2. This act provides for a tax levy within the meaning of  
19    Article IV of the Constitution and shall go into immediate effect.

20    ~~SECTION 1. Section 17053.70 of the Revenue and Taxation~~  
21    ~~Code is amended to read:~~

22    ~~17053.70. (a) There shall be allowed as a credit against the~~  
23    ~~“net tax” (as defined in Section 17039) for the taxable year an~~  
24    ~~amount equal to the sales or use tax paid or incurred during the~~  
25    ~~taxable year by the taxpayer in connection with the taxpayer’s~~  
26    ~~purchase of qualified property.~~

27    ~~(b) For purposes of this section:~~

28    ~~(1) “Taxpayer” means a person or entity engaged in a trade or~~  
29    ~~business within an enterprise zone.~~



1     (2) “Qualified property” means:

2     (A) Any of the following:

3     (i) ~~Machinery and machinery parts used for fabricating,~~  
4 ~~processing, assembling, and manufacturing.~~

5     (ii) ~~Machinery and machinery parts used for the production of~~  
6 ~~renewable energy resources.~~

7     (iii) ~~Machinery and machinery parts used for either of the~~  
8 ~~following:~~

9     (I) ~~Air pollution control mechanisms.~~

10     (II) ~~Water pollution control mechanisms.~~

11     (iv) ~~Data processing and communications equipment, including,~~  
12 ~~but not limited, to computers, computer-automated drafting~~  
13 ~~systems, copy machines, telephone systems, and faxes.~~

14     (v) ~~Motion picture manufacturing equipment central to~~  
15 ~~production and postproduction, including, but not limited to,~~  
16 ~~cameras, audio recorders, and digital image and sound processing~~  
17 ~~equipment.~~

18     (B) ~~The total cost of qualified property purchased and placed~~  
19 ~~in service in any taxable year that may be taken into account by~~  
20 ~~any taxpayer for purposes of claiming this credit shall not exceed~~  
21 ~~one million dollars (\$1,000,000) per each enterprise zone.~~

22     (C) ~~The qualified property is used by the taxpayer exclusively~~  
23 ~~in an enterprise zone.~~

24     (D) ~~The qualified property is purchased and placed in service~~  
25 ~~before the date the enterprise zone designation expires, is no longer~~  
26 ~~binding, or becomes inoperative.~~

27     (3) “Enterprise zone” means the area designated as an enterprise  
28 zone pursuant to Chapter 12.8 (commencing with Section 7070)  
29 of Division 7 of Title 1 of the Government Code.

30     (e) ~~If the taxpayer has purchased property upon which a use tax~~  
31 ~~has been paid or incurred, the credit provided by this section shall~~  
32 ~~be allowed only if qualified property of a comparable quality and~~  
33 ~~price is not timely available for purchase in this state.~~

34     (d) ~~In the case where the credit otherwise allowed under this~~  
35 ~~section exceeds the “net tax” for the taxable year, that portion of~~  
36 ~~the credit that exceeds the “net tax” may be carried over and added~~  
37 ~~to the credit, if any, in succeeding taxable years, until the credit is~~  
38 ~~exhausted. The credit shall be applied first to the earliest taxable~~  
39 ~~years possible.~~



1     ~~(e) Any taxpayer who elects to be subject to this section shall~~  
2     ~~not be entitled to increase the basis of the qualified property as~~  
3     ~~otherwise required by Section 164(a) of the Internal Revenue Code~~  
4     ~~with respect to sales or use tax paid or incurred in connection with~~  
5     ~~the taxpayer's purchase of qualified property.~~

6     ~~(f) (1) The amount of the credit otherwise allowed under this~~  
7     ~~section and Section 17053.74, including any credit carryover from~~  
8     ~~prior years, that may reduce the "net tax" for the taxable year shall~~  
9     ~~not exceed the amount of tax that would be imposed on the~~  
10    ~~taxpayer's business income attributable to the enterprise zone~~  
11    ~~determined as if that attributable income represented all of the~~  
12    ~~income of the taxpayer subject to tax under this part.~~

13    ~~(2) Attributable income shall be that portion of the taxpayer's~~  
14    ~~California source business income that is apportioned to the~~  
15    ~~enterprise zone. For that purpose, the taxpayer's business income~~  
16    ~~attributable to sources in this state first shall be determined in~~  
17    ~~accordance with Chapter 17 (commencing with Section 25101) of~~  
18    ~~Part 11. That business income shall be further apportioned to the~~  
19    ~~enterprise zone in accordance with Article 2 (commencing with~~  
20    ~~Section 25120) of Chapter 17 of Part 11, modified for purposes~~  
21    ~~of this section in accordance with paragraph (3).~~

22    ~~(3) Business income shall be apportioned to the enterprise zone~~  
23    ~~by multiplying the total California business income of the taxpayer~~  
24    ~~by a fraction, the numerator of which is the property factor plus~~  
25    ~~the payroll factor, and the denominator of which is two. For~~  
26    ~~purposes of this paragraph:~~

27    ~~(A) The property factor is a fraction, the numerator of which is~~  
28    ~~the average value of the taxpayer's real and tangible personal~~  
29    ~~property owned or rented and used in the enterprise zone during~~  
30    ~~the taxable year, and the denominator of which is the average value~~  
31    ~~of all the taxpayer's real and tangible personal property owned or~~  
32    ~~rented and used in this state during the taxable year.~~

33    ~~(B) The payroll factor is a fraction, the numerator of which is~~  
34    ~~the total amount paid by the taxpayer in the enterprise zone during~~  
35    ~~the taxable year for compensation, and the denominator of which~~  
36    ~~is the total compensation paid by the taxpayer in this state during~~  
37    ~~the taxable year.~~

38    ~~(4) The portion of any credit remaining, if any, after application~~  
39    ~~of this subdivision, shall be carried over to succeeding taxable~~



1 years, as if it were an amount exceeding the “net tax” for the  
2 taxable year, as provided in subdivision (d):

3 (g) ~~The amendments made to this section by the act adding this~~  
4 ~~subdivision shall apply to taxable years beginning on or after~~  
5 ~~January 1, 1998.~~

6 SEC. 2. ~~Section 23612.2 of the Revenue and Taxation Code~~  
7 ~~is amended to read:~~

8 23612.2. (a) ~~There shall be allowed as a credit against the~~  
9 ~~“tax” (as defined by Section 23036) for the taxable year an amount~~  
10 ~~equal to the sales or use tax paid or incurred during the taxable~~  
11 ~~year by the taxpayer in connection with the taxpayer’s purchase~~  
12 ~~of qualified property.~~

13 (b) ~~For purposes of this section:~~

14 (1) ~~“Taxpayer” means a corporation engaged in a trade or~~  
15 ~~business within an enterprise zone.~~

16 (2) ~~“Qualified property” means:~~

17 (A) ~~Any of the following:~~

18 (i) ~~Machinery and machinery parts used for fabricating,~~  
19 ~~processing, assembling, and manufacturing.~~

20 (ii) ~~Machinery and machinery parts used for the production of~~  
21 ~~renewable energy resources.~~

22 (iii) ~~Machinery and machinery parts used for either of the~~  
23 ~~following:~~

24 (I) ~~Air pollution control mechanisms.~~

25 (II) ~~Water pollution control mechanisms.~~

26 (iv) ~~Data-processing and communications equipment, including,~~  
27 ~~but not limited to, computers, computer-automated drafting~~  
28 ~~systems, copy machines, telephone systems, and faxes.~~

29 (v) ~~Motion picture manufacturing equipment central to~~  
30 ~~production and postproduction, including, but not limited to,~~  
31 ~~cameras, audio recorders, and digital image and sound processing~~  
32 ~~equipment.~~

33 (B) ~~The total cost of qualified property purchased and placed~~  
34 ~~in service in any taxable year that may be taken into account by~~  
35 ~~any taxpayer for purposes of claiming this credit shall not exceed~~  
36 ~~twenty million dollars (\$20,000,000) per each enterprise zone.~~

37 (C) ~~The qualified property is used by the taxpayer exclusively~~  
38 ~~in an enterprise zone.~~



~~(D) The qualified property is purchased and placed in service before the date the enterprise zone designation expires, is no longer binding, or becomes inoperative.~~

~~(3) “Enterprise zone” means the area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.~~

~~(e) If the taxpayer has purchased property upon which a use tax has been paid or incurred, the credit provided by this section shall be allowed only if qualified property of a comparable quality and price is not timely available for purchase in this state.~~

~~(d) In the case where the credit otherwise allowed under this section exceeds the “tax” for the taxable year, that portion of the credit which exceeds the “tax” may be carried over and added to the credit, if any, in the following year, and succeeding years if necessary, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.~~

~~(e) Any taxpayer who elects to be subject to this section shall not be entitled to increase the basis of the qualified property as otherwise required by Section 164(a) of the Internal Revenue Code with respect to sales or use tax paid or incurred in connection with the taxpayer’s purchase of qualified property.~~

~~(f) (1) The amount of credit otherwise allowed under this section and Section 23622.7, including any credit carryover from prior years, that may reduce the “tax” for the taxable year shall not exceed the amount of tax which would be imposed on the taxpayer’s business income attributable to the enterprise zone determined as if that attributable income represented all of the income of the taxpayer subject to tax under this part.~~

~~(2) Attributable income shall be that portion of the taxpayer’s California source business income that is apportioned to the enterprise zone. For that purpose, the taxpayer’s business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the enterprise zone in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section in accordance with paragraph (3).~~

~~(3) Business income shall be apportioned to the enterprise zone by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus~~



1 the payroll factor, and the denominator of which is two. For  
2 purposes of this paragraph:

3 (A) The property factor is a fraction, the numerator of which is  
4 the average value of the taxpayer's real and tangible personal  
5 property owned or rented and used in the enterprise zone during  
6 the taxable year, and the denominator of which is the average value  
7 of all the taxpayer's real and tangible personal property owned or  
8 rented and used in this state during the taxable year.

9 (B) The payroll factor is a fraction, the numerator of which is  
10 the total amount paid by the taxpayer in the enterprise zone during  
11 the taxable year for compensation, and the denominator of which  
12 is the total compensation paid by the taxpayer in this state during  
13 the taxable year.

14 (4) The portion of any credit remaining, if any, after application  
15 of this subdivision, shall be carried over to succeeding taxable  
16 years, as if it were an amount exceeding the "tax" for the taxable  
17 year, as provided in subdivision (d).

18 (g) The amendments made to this section by the act adding this  
19 subdivision shall apply to taxable years beginning on or after  
20 January 1, 1998.

21 SEC. 3. This act provides for a tax levy within the meaning of  
22 Article IV of the Constitution and shall go into immediate effect.